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Charles T. Drevna  
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*Ex Parte*

February 7, 2001

Magalie R. Salas, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

RE: IB Docket No. 00-203; RM-9649

Dear Ms. Salas:

Enclosed are the comments of Tosco Corporation in opposition to the subject proposal. Tosco appreciates the opportunity to provide comments to the Commission on this vital matter. If you or your staff need additional information or have questions, please feel free to contact either Frank Valdez at Tosco's Network Operation Center (602-728-7398) or me directly.

Sincerely,

A handwritten signature in black ink, appearing to be 'C. Drevna'.

Enclosure

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ABCDE

A handwritten signature in black ink, appearing to be 'C. Drevna', is written over a rectangular stamp that contains the text 'No. of Copies rec'd' and 'ABCDE'.

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**COMMENTS  
OF  
TOSCO CORPORATION  
TO  
THE FEDERAL COMMUNICATIONS COMMISSION  
ON  
NOTICE OF PROPOSED RULEMAKING  
"DEMONSTRATED USE" REQUIREMENT FOR FIXED-SATELLITE  
SERVICE EARTH STATIONS**

**IB Docket No. 00-203; RM-9649**

**February 7, 2001**

On October 24, 2000, the Federal Communications Commission (the Commission) released a Notice of Proposed Rulemaking to add a "demonstrated use" requirement for Fixed-Satellite Service earth stations licensed to use C-band or Ku-band frequencies that are shared with terrestrial services [65 Federal Register 70541.] Under the proposal, an earth station operator would lose its priority to use frequencies requested by a terrestrial operator if it could not demonstrate that it is using, has recently used, or has imminent plans to use, the frequencies requested. Tosco Corporation appreciates the opportunity to provide comments to the Commission on this vital matter.

Tosco is the largest independent refiner and marketer of gasoline and other petroleum products in the nation. We own and operate eight refineries located in all areas of the country. Tosco markets its products through a network of approximately 6,000 retail gasoline stations and convenience stores located in over 30 states.

In addition to our refining and marketing activities, Tosco owns and operates regulated pipeline systems. In the Western United States, Tosco operates approximately 1,000 miles of liquid pipelines, breakout tank facilities, and other pipelines connected to bulk loading terminals. In the Northeast, we operate approximately 300 miles of liquid pipelines and breakout tank facilities.

The proposed rulemaking sets out a proposed "demonstrated use" requirement that would unreasonably constrain satellite service providers and impair their ability to meet our business needs. Further, we find no compelling need to alter the current system, which has shown to be workable and efficient. The potential disruptions of satellite communications which would result from the rule could have serious ramifications to the supply and distribution system for petroleum products, particularly gasoline and diesel fuel. Tosco opposes the proposed rule because it would disrupt efficient movement and distribution of petroleum products in the U.S.

Tosco has two major networks that ride on our satellite system. These are (1) the pipeline control system and (2) the Point of Sale (POS) system that connects our nationwide network of service stations and convenience stores. Both networks are integral parts of our overall business and would be negatively affected by the proposed rule.

The pipeline system would face major concerns if we had system reliability issues requiring the changing of our assigned frequency or satellite to maintain communications. In California, for example, Tosco's Supervisory Control and Data Acquisition System (SCADA) monitors and controls over 900 miles of crude oil and petroleum products pipelines. This system continuously monitors for pipeline leaks, as well as controlling and monitoring over 3,800 points of data all via a satellite system. Without the monitoring of these points and the leak detection associated with the system, we cannot operate. Any sustained shutdown of crude oil or product pipelines would eventually necessitate reduced operations or shutdown of refineries. If the terminals could no longer receive gasoline, retailers and consumers would have limited supplies of product. The potential impact on fuel supplies of interrupting pipeline operations has been graphically demonstrated recently as a result of the electricity crisis in California.

The current system works well even when problems develop. For example, in 1998, our satellite service provider had a major problem with the satellite we were using, and had to move us to another satellite. Within 24 hours after the failure, we were back in service. Today, we can move to another satellite without requiring re-licensing or frequency coordination. If the proposed rulemaking were made final, the distribution system could be down for days and possibly weeks waiting for a frequency study and then a Special Temporary Authorization from the FCC. This could cause a disruption in overall supplies of gasoline, diesel fuel, jet fuel and other petroleum products upon which California and the rest of the nation depends so heavily.

Satellite communication is also used by Tosco to connect 2,200 of its retail service stations and c-stores for credit card transaction processing through our POS system. Disruption of the POS network would have major impacts on the millions of customers nationwide who rely on our network of retail outlets on a daily basis. Interruption in satellite communication would impair Tosco's ability to process transactions from the credit card readers in the fuel dispensers, where approximately 70% of credit card sales originate. This would greatly slow transaction processing, resulting in lines at service stations, great inconvenience to our customers, and lost sales. To the extent service station lines extend into streets, safety and traffic flow could also be affected.

Tosco requires and demands reliable and effective satellite service in order to meet its business needs. In order to provide service at the level we demand, satellite service providers must have significant flexibility to manage their fleets efficiently

and, when necessary, to shift services from transponder to transponder, or from satellite to satellite. The need for flexibility is particularly acute in times of emergency or when there has been an equipment failure, but can arise at any time.

As earlier stated, but bears repeating here, Tosco is concerned that the proposed “demonstrated use” requirement would unreasonably constrain satellite service providers and impair their ability to meet our business needs. Wetherefore request that the Commission abandon its proposal to add a “demonstrated use” requirement to its earth station rules.